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Decision

Matter of: Sabre Systems, Inc.

File: B-420090.4

Date: January 17, 2023

Alexander O. Canizares, Esq., Seth H. Locke, Esq., and Julia M. Fox, Esq., Perkins Coie LLP, for the protester.

John E. Jensen, Esq., Meghan D. Doherty, Esq., and Robert C. Starling, Esq., Pillsbury Winthrop Shaw Pittman LLP, for American Systems Corporation, the intervenor.

Brian W. Ritter, Jr., Esq., and Morgan E. Gierhart, Esq., Department of the Navy, for the agency.

Uri R. Yoo, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of the awardee's proposed professional employee compensation plan is denied where the evaluation was reasonable and consistent with the solicitation and applicable procurement regulations.

DECISION

Sabre Systems, Inc., of Warminster, Pennsylvania, protests the award of a contract to American Systems Corporation, of Chantilly, Virginia. Sabre challenges the award under request for proposals (RFP) No. N00421-20-R-0127, issued by the Department of the Navy, Naval Air Systems Command, for mission system software engineering, development, integration, testing, and in-service support for U.S. Naval aircraft major defense acquisition programs. Sabre contends that the agency's evaluation of American Systems' total compensation plan was unreasonable and inconsistent with the solicitation and applicable procurement regulations.

We deny the protest.

BACKGROUND

The Navy issued the solicitation on October 2, 2020, contemplating the award of an indefinite-delivery, indefinite-quantity contract with a 5-year ordering period and cost-plus-fixed-fee and cost-reimbursable components. Agency Report (AR), RFP

at 1, 2, 73.¹ The RFP sought services in support of the Navy's Software Engineering Department and the Naval Air Systems Command program managers, including "direct software systems engineering support services throughout the full life cycle of a weapon system from concept development through disposal, [applying] to [n]aval [a]ircraft weapons and support systems." *Id.* at 28.

The RFP provided that award would be made on a best-value tradeoff basis. *Id.* at 159. The RFP further informed offerors that the lowest-priced proposal meeting the solicitation requirements might not be selected for an award if award to a higher-priced offeror was determined to be more beneficial to the government. *Id.* The RFP also advised, however, that the perceived benefits of the higher-priced proposal must merit the additional price. *Id.*

Proposals would be evaluated on the basis of three factors (in descending order of importance): (1) technical; (2) past performance; and (3) price/cost. *Id.* at 160. The RFP advised that the technical and past performance factors, when combined, were significantly more important than price/cost. *Id.* The RFP also informed offerors that, while price/cost was "not the most important evaluation factor, [] its degree of importance [would] increase commensurably with the degree of equality" among proposals. *Id.*

As relevant here, the RFP required each offeror to provide, as part of its price/cost proposal, a total compensation plan "for each proposed professional employee" in accordance with Federal Acquisition Regulation (FAR) provision 52.222-46. *Id.* at 150. The plan was to include: (1) the proposed direct labor rate for each professional employee proposed; (2) the total cost of the proposed fringe benefits package for each professional employee proposed, along with a summary of benefits making up the package and an itemization of benefits that require employee contribution; and (3) data used by the offeror in establishing the total compensation structure. *Id.* A detailed list of all required labor categories and the anticipated level of effort for each labor category were provided in the solicitation. *Id.* at 152-154. The RFP informed offerors that the agency would evaluate total compensation plans in accordance with FAR provision 52.222-46. *Id.* at 155-156, 162.

The agency received timely proposals from four offerors, including Sabre and American Systems. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 6. Following an evaluation of proposals, the agency made an initial award to American Systems on July 30, 2021. *Id.* After receiving debriefings, Sabre and another unsuccessful offeror filed protests with our Office challenging the agency's evaluation of proposals and award decision. Subsequently, the agency took corrective action and our Office dismissed both protests as academic based on the agency's proposed corrective

¹ Citations to the RFP are to the original page numbers of the solicitation. All other citations to the agency report exhibits are to the BATES page numbers provided by the agency.

action. See *COLSA Corporation*, B-420090, Sept. 13, 2021 (unpublished decision); *Sabre Systems, Inc.*, B-420090.2, Sept. 13, 2021 (unpublished decision).

On February 8, 2022, the agency completed its reevaluation pursuant to this first corrective action and again selected American Systems for award. COS/MOL at 6. Sabre filed a second protest with our Office, challenging various aspects of the agency's evaluation of proposals. *Id.* Our Office sustained the protest based on the agency's unreasonable exclusion of certain categories of workers from its evaluation of the awardee's professional employee compensation plan. See *Sabre Systems, Inc.*, B-420090.3, June 1, 2022, 2022 CPD ¶ 137. In that decision, we recommended that the agency reevaluate offerors' total compensation plans in a manner consistent with FAR provision 52.222-46, specifically including in its assessment all "professional employees," as defined in 29 C.F.R. part 541 (part 541). *Id.* at 4-8, 15. We also denied Sabre's other protest grounds, including challenges to the agency's technical evaluation, past performance evaluation, and cost realism analysis. See *id.*

In accordance with our recommendation, the agency reevaluated offerors' total compensation plans and made a new award decision, again selecting American Systems for award. COS/MOL at 7; see *Sabre Systems, Inc.*, B-420090.3, *supra* at 15. The agency's source selection decision reaffirmed the evaluation ratings that were previously assigned to each offeror's proposal under each evaluation factor as follows:

	SABRE	AMERICAN SYSTEMS
Technical	Good	Good
Understanding of Work	Good	Good
Workforce	Good	Acceptable
Management Approach	Good	Good
Past Performance	Substantial Confidence	Substantial Confidence
Proposed Cost/Price	\$191,341,314	\$165,409,684
Most Probable Cost/Price	\$211,471,556	\$190,126,983

AR, Exh. 3, Source Selection Decision Memorandum (SSDM) at 206.

The agency notified Sabre of its award decision and, after receiving a debriefing, Sabre filed this protest.

DISCUSSION

In this third iteration of Sabre's challenge to the Navy's award decision for this procurement, the protester alleges that the agency failed to evaluate the awardee's total compensation plan reasonably and in accordance with the solicitation and applicable regulations. First, the protester argues that the agency once again improperly excluded certain professional labor categories from its total compensation plan evaluation. Protest at 11-16. The protester also contends that the agency failed to evaluate the

awardee's total compensation plan in accordance with FAR provision 52.222-46 and unreasonably failed to adjust the awardee's most probable cost. *Id.* at 17-21.

As relevant here, FAR provision 52.222-46 states that lowering the compensation paid to professional employees in a recompetition "can be detrimental in obtaining the quality of professional services needed for adequate contract performance" and that it is in the government's best interest that "professional employees, as defined in 29 CFR 541, be properly and fairly compensated." FAR 52.222-46(a). Accordingly, the provision instructs offerors to "submit a total compensation plan setting forth salaries and fringe benefits proposed for the professional employees who will work under the contract" and requires the agency to "evaluate the plan to assure that it reflects a sound management approach and understanding of the contract requirements." *Id.* The provision further requires the agency to assess the offeror's "ability to provide uninterrupted high-quality work" by considering the proposed professional compensation "in terms of its impact upon recruiting and retention, its realism, and its consistency with a total plan for compensation." *Id.*

As discussed below, we find the Navy's reevaluation of American Systems' total compensation plan to be reasonable and consistent with the solicitation and FAR provision 52.222-46. Although we do not address all of the protester's arguments, we have reviewed each one and find that none provides a basis to sustain the protest.

Professional Labor Categories

Sabre asserts that the agency unreasonably excluded certain professional labor categories from its evaluation of American Systems' total compensation plan. Protest at 11-16. In this regard, the protester contends that the labor categories of engineering technician, technical writer, air crew member, and drafter/computer-aided drawing (CAD) operator are "professional" labor categories as defined in the applicable labor regulations. *Id.* Thus, the protester argues, the agency should have assessed the proposed rates for these labor categories in its evaluation of the awardee's total compensation plan. *Id.*

The agency responds that it reasonably determined that these labor categories do not constitute "professional" occupations under the applicable regulations. COS/MOL at 10-15. Based on this determination, the agency argues that it properly excluded the rates proposed for these labor categories from its evaluation of total compensation plans under the FAR provision. *Id.*

Based on our review of the record, we agree with the agency that the contested labor categories of engineering technician, technical writer, air crew member, and drafter/CAD operator are not "professional employees" for the purposes of the total compensation plan evaluation under FAR provision 52.222-46. We discuss below the labor category of engineering technicians as a representative example.

The solicitation described the functional duties of engineering technicians as follows:

Functional duties: Applies engineering techniques, principles and precedents to develop, design, modify, install, test, evaluate, or operate electrical, electronic, avionics, mechanical, communications, stores, armament/ordnance, or related data processing systems for military weapon systems or associated support equipment or components. Reviews, analyzes, develops, prepares or applies engineering, technical or maintenance specifications, policies, standards, or procedures. Organizes, analyzes, and prepares reports or presentations of technical data and information. Plans and performs tests and evaluations of systems equipment or components. Compiles, processes, reduces, or analyzes test data results. Performs assignments that are not completely standardized or prescribed, selects or adapts standard procedures or equipment, using fully applicable precedents, receives initial instructions, equipment requirements, and advice from supervisor or engineer as needed, performs recurring work independently.

RFP at 64. Required education for engineering technicians was specified as follows:

Required Education: High School diploma or GED. In addition, completion of a technical school, trade school, or advanced armed services technical school curriculum or course of training in electricity, electronics, avionics, mechanics, armaments/ordnance, or engineering technology, or completion of at least 30 semester hours of course studies at an accredited college or university in an engineering, scientific, or technical curriculum.

Id. at 65. In addition to this educational requirement, the solicitation required different levels of engineering technicians to have a range of between 6 and 10 years of experience “performing functions in an engineering field.” *Id.*

As noted above, the FAR provision requires the agency to evaluate each offeror’s total compensation plan proposed for “professional employees, as defined in 29 CFR 541.” FAR 52.222-46(a). Part 541, in turn, defines professional employees as follows:

(a) The term “employee employed in a bona fide professional capacity” in section 13(a)(1) of the Act shall mean any employee:

(1) Compensated on a salary or fee basis . . . at a rate of not less than \$684 per week . . . ; and

(2) Whose primary duty is the performance of work: (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

29 C.F.R. § 541.300(a).

The applicable regulations provide further guidance on work “[r]equiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction” under subsection 541.300(a)(2)(i) of title 29.² Specifically, subsection 541.301(a) provides that, to qualify as a “learned professional” under this exemption,³ the occupation must meet all three elements of the “primary duty test”: (1) the employee must perform work requiring advanced knowledge; (2) the advanced knowledge must be in a field of science or learning; and (3) the advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction. 29 C.F.R. § 541.301(a). The parties’ primary disagreement relates to the application of the third prong of this primary duty test: whether the advanced knowledge required for engineering technicians to perform their duties is one that is “customarily acquired by a prolonged course of specialized intellectual instruction.” *Id.* Accordingly, we focus our discussion on this aspect of the dispute.

With respect to the third prong, part 541 explains that the phrase “customarily acquired by a prolonged course of specialized intellectual instruction” restricts the exemption to “professions where specialized academic training is a standard prerequisite for entrance into the profession,” as may be evidenced by an “appropriate academic degree.” 29 C.F.R. § 541.301(d). The regulation allows for exceptions “where employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction,” such as “the occasional lawyer who has not gone to law school” or “the occasional chemist” without a degree in chemistry. *Id.* The regulation, however, also clarifies that the exemption does not apply to “occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.” *Id.*

The record shows that the agency decided to exclude engineering technicians from its total compensation plan evaluation after considering the education, experience, and training requirements of the position, as well as the nature of the work to be performed by engineering technicians under this contract. AR, Exh. 6, American Systems Cost Report at 344-346; Exh. 11, Decl. of Contracting Officer at 391. Based on these considerations, the agency concluded that engineering technicians were not professional employees as defined in part 541. *Id.* In this regard, the contracting officer found that “the position does not require a degree[,] and the personnel qualifications set forth in the position description are mostly attained through on-the-job training and

² While the definition of professional employees in part 541 contains multiple subparts, the parties’ dispute here concerns section 541.300(a)(2)(i), the “learned professional” exemption as explained in 29 C.F.R. section 541.301.

³ Part 541, in general, provides the regulatory implementation of exemptions from the Fair Labor Standards Act. 29 C.F.R. § 541.0.

experience” rather than from “a prolonged course of specialized intellectual instruction.” AR, Exh. 11, Decl. of Contracting Officer at 391. The contracting officer also explains that, while engineering technicians were required to apply engineering techniques, principles, and precedents, their primary duties are significantly different from those of their professional counterparts--engineers with professional degrees. *Id.* at 392. Specifically, the contracting officer notes that engineering technicians would support and assist, and often work under the supervision of, the engineers, who are ultimately responsible for designing and developing the various projects. *Id.*

On this record, we find the agency’s decision reasonable. Specifically, we find that the record does not support Sabre’s argument that the solicitation requires engineering technicians to perform work requiring an advanced knowledge that customarily requires a prolonged course of specialized intellectual instruction. See Protest at 12-13; Protester’s Comments at 3-6. Instead, the record shows that the educational level of knowledge required for engineering technicians is a limited course of study--completion of a technical/trade school or 30 hours of technical coursework--rather than a prolonged course of specialized intellectual instruction in engineering, such as is required for an engineering degree. See RFP at 65.

Moreover, we are not persuaded by the protester’s argument that the solicitation’s requirement for 6 to 10 years of experience in “performing functions in an engineering field” is evidence that the engineering technician position requires advanced knowledge in engineering. See Protester’s Comments at 4. Rather, this experience requirement supports the agency’s finding that the occupation of an engineering technician is one in which qualifications are “mostly attained through on-the-job training and experience.” AR, Exh. 11, Decl. of Contracting Officer at 391. As noted above, part 541 specifically provides that the learned professional exemption does not apply to “occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.” See 29 C.F.R. § 541.301(d).

Based on this record, we find reasonable the agency’s conclusion that engineering technicians, as described in the solicitation, are not professional employees as defined in part 541. See *e.g.*, *Relief Servs., Inc.; Radiological Physics Asscs., Inc.*, B-252835.3, B-252835.4, Aug. 24, 1993, 93-2 CPD ¶ 116 at 4-5 (finding that the agency properly determined that a solicitation’s job classifications did not call for professional employees because the job classifications required only 2 years of post-secondary education, which does not constitute “prolonged study” under part 541). We, therefore, also conclude that the agency reasonably excluded proposed compensation for engineering technicians when evaluating offerors’ total compensation plans under FAR provision 52.222-46. Moreover, while not specifically addressed here, we have reviewed the protester’s arguments with respect to the agency’s decision to exclude technical writers, air crew members, and drafter/CAD operators in its total compensation plan evaluation, and find that the agency reasonably concluded that the employees in these labor categories were also not professional employees as defined in part 541. Accordingly, we find no basis to sustain the protest in this regard.

Evaluation of Total Compensation Plans

Having concluded that the agency reasonably excluded certain non-professional labor categories from its evaluation of total compensation plans under FAR provision 52.222-46, we turn to Sabre's remaining challenges to the agency's total compensation plan evaluation. The protester primarily argues that the agency failed to meaningfully analyze the risk of the unrealistically low professional compensation proposed by the awardee. Protest at 17-21. Specifically, Sabre contends that it was unreasonable for the agency to rely on the awardee's proposed [DELETED] bonus to mitigate the considerable risk arising from American Systems' lower professional compensation. *Id.*; Protester's Comments at 9-19. Sabre argues that the agency should have upwardly adjusted the awardee's most probable cost to account for this increased risk. *Id.*

The agency responds that it reasonably evaluated the awardee's total compensation plan in accordance with FAR provision 52.222-46. In this regard, the agency contends that it conducted a thorough analysis of the awardee's total compensation plan as a whole--including labor rates and fringe benefits--and reasonably found it to be realistic. COS/MOL at 34-37. The agency also argues that it duly noted the risk presented by compensation levels lower than the incumbent contractor, and reasonably concluded the risk was sufficiently mitigated by other aspects of the awardee's total compensation plan. *Id.* at 37-40. Moreover, the agency asserts that it analyzed all proposed labor rates and fringe benefits for cost realism, and upwardly adjusted proposed costs that were deemed unrealistic.⁴ *Id.*

Our Office has previously noted that the purpose of a review of professional employee compensation is to evaluate each offeror's ability to provide uninterrupted, high-quality work, considering the realism of the proposed professional compensation and its impact upon recruitment and retention. *ENGlobal Govt. Servs., Inc.*, B-419612.3, Dec. 15, 2021, 2022 CPD ¶ 12 at 11; *A-P-T Research, Inc.*, B-419459, Mar. 12, 2021, 2021 CPD ¶ 274 at 4. In the context of a fixed-price, labor-hour contract, our Office has noted that this FAR provision anticipates an evaluation of whether an offeror understands the contract's requirements, and has offered a compensation plan appropriate for those requirements--in effect, a price realism evaluation regarding an offeror's proposed compensation. *ENGlobal Govt. Servs., Inc.*, *supra*; *Apptis Inc.*, B-403249, B-403249.3, Sept. 30, 2010, 2010 CPD ¶ 237 at 9.

In addition to the price realism analysis, our Office has explained that, in recompetitions, FAR provision 52.222-46(b) requires the agency to compare the awardee's proposed

⁴ We note that the protester has not challenged the agency's cost realism analysis other than with respect to the professional compensation plan evaluation. Our Office has denied the protester's previous challenges to the agency's cost realism analysis and found that the agency's cost realism analysis--other than with respect to the professional compensation plan evaluation under FAR section 52.222-46--was reasonable and appropriately documented. See *Sabre Systems, Inc.*, B-420090.3, *supra* at 4 n.1.

professional compensation to the incumbent contractor's. *SURVICE Eng'g Co., LLC*, B-414519, July 5, 2017, 2017 CPD ¶ 237 at 5-6; FAR 52.222-46. If the agency determines the awardee's proposal envisions lower compensation levels compared to the incumbent contractor, then the agency must further evaluate the awardee's proposed compensation plan on the basis of maintaining program continuity, among other considerations. *Id.* In sum, our Office has identified two required analyses that the agency must perform under FAR provision 52.222-46, one based on the price realism of the compensation plan and the other considering whether the compensation plan will allow for program continuity through the retention of professional contractor employees. See *ENGlobal Govt. Servs., Inc., supra*.

Here, the record reflects that the agency conducted an evaluation that was reasonable, consistent with the solicitation, and in accordance with the requirements of FAR provision 52.222-46. First, the cost/price evaluators compared the proposed direct labor rates for each professional labor category against incumbent labor rates and, where no incumbent rates were available, against the cost realism minimum salary range for the labor category developed using 2019 Bureau of Labor Statistics (BLS) data. AR, Exh. 6, American Systems Cost/Price Evaluation Report at 346-350.

The evaluators found that American Systems proposed lower average direct labor rates than the incumbent for [DELETED] of the 43 professional labor categories evaluated and, for [DELETED] of those [DELETED] labor categories, the awardee's proposed hourly rates were found to be from \$[DELETED] to \$[DELETED] lower than the incumbent's average hourly rates. *Id.* at 350-351. Based on this finding, the evaluators concluded that "the overall risk would be moderate in the prime Offeror's ability to provide uninterrupted, high-quality work, as the professional labor categories [with labor rates] lower than the incumbent's average direct labor rates are greater than [DELETED] percent ([DELETED]%)" of the professional labor categories proposed. *Id.* at 351.

While recognizing these risks, the agency also evaluated elements of American Systems' proposed compensation plan that supported the realism of its pricing. In this regard, the evaluators also found that, of the [DELETED] full-time equivalents (FTE) the awardee proposed for the 25 labor categories, [DELETED] FTEs were employees currently on the awardee's payroll, while [DELETED] FTEs were prospective hires.⁵ *Id.* at 350. Moreover, the evaluators noted that American Systems' compensation plan approach included [DELETED] bonuses and awards, as well as a "[DELETED] bonus" that would "help to attract and retain qualified personnel."⁶ *Id.* at 352. Considering these aspects of American Systems' compensation plan, the evaluators determined that

⁵ The agency noted that one FTE was categorized as "other." AR, Exh. 6, American Systems Cost/Price Evaluation Report at 350.

⁶ American Systems proposed, as part of its total compensation plan, a "[DELETED] bonus," which [DELETED]. See *generally*, AR, Exh. 10, American Systems Cost/Price Proposal.

“where the prime would be at risk of hiring incumbent personnel, overall the risk would be low.” *Id.* Based on this analysis, the agency concluded that American Systems “should be able to obtain and keep qualified personnel based on the amount of individuals that were proposed with payroll to meet mission objectives and provide an uninterrupted high-quality level of work.” *Id.*

Next, the cost/price evaluators analyzed American Systems’ fringe benefits, comparing them to the incumbent fringe benefit rates, as well as to 2020 BLS national average rates for private industry workers. *Id.* at 355-360. The evaluators found that, for the labor categories for which the incumbent provided fringe benefits data, the awardee proposed lower fringe rates than the incumbent for [DELETED] labor categories, but proposed higher fringe rates than the incumbent for [DELETED] labor categories. *Id.* at 358. The evaluators also found that the benefits offered by the awardee were consistent with the 2020 BLS national average fringe benefit rates, as well as the 2021 BLS employee benefits survey data for private industry workers. *Id.* at 360. Considering this fringe benefit analysis together with the above-discussed labor rates analysis, the evaluators determined that “the compensation plan benefits and [DELETED] bonus provided by American Systems reduces the risk of the professional employee average direct labor rate.” *Id.* The agency concluded that the awardee’s total compensation plan was “realistic and the analysis indicates an ability to provide compensation levels which reflect a clear understanding of work to be performed, to obtain and keep qualified personnel to meet mission objectives and provide an uninterrupted high-quality level of work.” *Id.*

Upon reviewing the cost/price evaluators’ analysis and conclusions with respect to American Systems’ total compensation plan, the source selection evaluation board (SSEB) concurred with the evaluators’ analysis and concluded as follows:

American Systems . . . proposed direct labor rates for the professional labor categories that were on average lower than the incumbent contract average direct labor rates and cost realism rate ranges. American Systems did propose [DELETED] FTE payroll verified employees out of [DELETED] FTE professional employees . . . and American Systems is the only Offeror to propose a [DELETED] bonus as part of their benefits package, which the Navy determined to be a risk reducer to their lower-than-incumbent contract average direct labor rates for these professional labor categories.

AR, Exh. 4, SSEB Proposal Analysis Report at 250. In conducting a comparative assessment of proposals after reviewing the cost/price evaluation report and the SSEB report, the source selection authority (SSA) noted as follows:

[T]he Navy recognizes a risk associated with the American Systems proposal as cost realism adjustments were necessary. . . . Specifically, as it pertains to professional labor, American Systems proposed [DELETED] of the total [DELETED] professional FTEs as current employees with

average direct labor rates consistently below incumbent contract direct labor rate averages and cost realism rate ranges for the professional labor categories.

AR, Exh. 3, SSDM at 192, 205. The SSA, however, also noted that:

While American Systems does not have a fully staffed incumbent workforce, American Systems proposed a [DELETED] bonus benefit to attract and retain skilled and qualified personnel. The Government considers this [DELETED] bonus a significant risk reducer and it alleviates much of the Navy's concern in American Systems' ability to recruit and retain a qualified workforce, including professional employees.

Id. at 205. Based on this evaluation, the SSA concluded that "American Systems possesses the requisite capabilities to hire and retain a qualified professional labor force necessary to satisfy the requirements set forth in the solicitation." *Id.* at 206.

On this evaluation record, the agency argues that its evaluation of the awardee's total compensation plan was reasonable and in accordance with the solicitation and FAR provision 52.222-46. COS/MOL at 30-40. We agree.

While the protester argues that the agency failed to meaningfully consider the risk of lowered professional compensation on American Systems' ability to perform the contract requirements, Protest at 20-21, the record shows that the agency reasonably considered this issue. For example, the cost/price evaluators specifically noted that "the overall risk would be moderate in [American Systems'] ability to provide uninterrupted, high-quality work" because American Systems' proposed compensation was lower than the incumbent's for over [DELETED] percent of the professional labor categories. AR, Exh. 6, American Systems Cost/Price Evaluation Report at 351. Moreover, the SSA, in the source selection decision, directly addressed the issue of the risk of performance posed by the awardee's lowered compensation, and decided that other aspects of the awardee's total compensation plan--*i.e.*, the number of proposed professional employees on the awardee's payroll and a [DELETED] bonus--alleviated that risk. AR, Exh. 3, SSDM at 205. The protester's disagreement with the agency's judgment in this regard, without more, does not provide a basis to sustain the protest. See *A-P-T Research, Inc.*, *supra* at 13-14.

The record also shows that, despite Sabre's contentions to the contrary, the agency reasonably evaluated the awardee's proposed fringe benefits as part of the total compensation plan evaluation. As an initial matter, our Office has previously found that nothing in FAR provision 52.222-46 requires the agency to find that both an offeror's proposed fringe benefits and salary are independently realistic; rather, the provision requires that the agency consider both salary and fringe benefit information, as a whole, to determine whether the total compensation plan is realistic. See *Criterion Systems, Inc.*, B-419749 *et al.*, July 21, 2021, 2021 CPD ¶ 261 at 11. Here, however, the record shows that the agency did conclude that American Systems' proposed fringe benefits

were realistic. In this regard, the Navy's price evaluators conducted a comparative analysis of American Systems' proposed fringe benefits and concluded that they were "consistent with those benefits listed in the BLS" and "also consistent with the benefits provided by the incumbent." AR, Exh. 6, American Systems Cost/Price Evaluation Report at 360. On this record, we find no basis to sustain the protester's challenges to the evaluation of the awardee's proposed fringe benefits.

Next, Sabre argues that the agency should have further adjusted the awardee's most probable cost upward to account for the risk posed by the lower professional compensation. In this regard, the protester asserts that the agency failed to conduct the cost realism analysis required by the FAR provision when it did not upwardly adjust the awardee's proposed professional labor rates and fringe benefit rates to the incumbent rates or "to the mid-range of BLS percentiles that the Navy identified." Protest at 18-20. We disagree.

As an initial matter, as noted above, the agency already adjusted offerors' proposed rates for all labor categories using a cost realism methodology that our Office found to be reasonable. See *Sabre Systems, Inc.*, B-420090.3, *supra* at 4 n.1. If the agency determines the awardee's proposal envisions lower compensation levels compared to the incumbent contractor, FAR provision 52.222-46 requires that the agency further evaluate the awardee's proposed compensation plan on the basis of maintaining program continuity, uninterrupted high-quality work, and availability of required competent professional service employees. FAR 52.222-46(b); see *SURVICE Eng'g Co., LLC*, B-414519, July 5, 2017, 2017 CPD ¶ 237 at 5-6. While nothing precludes the agency from adjusting the most probable cost calculations during this further evaluation, nothing mandates such an adjustment either. Here, the agency properly considered the awardee's total compensation plan as a whole and reasonably concluded that certain aspects of the plan, including a [DELETED] bonus, sufficiently alleviated the risk to maintaining program continuity posed by lower compensation levels than the incumbent contractor's. Although the protester continues to argue that the agency's analysis in this regard was "not meaningful" and unreasonable, Protester's Comments at 16-17, once again, the protester's disagreement with the agency's evaluative judgment, without more, does not render the evaluation unreasonable.

Finally, Sabre argues that the agency's best-value tradeoff analysis was flawed because it failed to consider the risks associated with the awardee's total compensation plan. Protester's Comments at 20-21. We find that the protester's argument is not supported by the record. As noted, the SSA specifically addressed "the risk of recruiting and retaining labor support, including professional employees, to ensure uninterrupted quality work" in the comparative analysis of proposals. AR, Exh. 3, SSDM at 205. In the tradeoff analysis, the SSA found that Sabre's proposal presented a "lower risk than American Systems' proposal as Sabre proposed a [DELETED] current employee workforce," but also noted that American Systems "proposed a [DELETED] bonus benefit to attract and retain skilled and qualified personnel" that "alleviates much of the Navy's concern." *Id.* Based on this analysis, the SSA concurred with the SSEB's determination that "while there is more risk in the American Systems' proposed effort to

fill the labor positions, that risk is not unreasonably high as to preclude the uninterrupted performance of high quality work.” *Id.*

In the source selection decision, the SSA concluded as follows:

In summary, I note that while Sabre was rated higher in Technical and Past Performance, and presented a lower risk in the realm of professional employee total compensation, the SSEB has determined that the qualitative differences between their proposal submission and that of American Systems do[] not warrant a \$21M premium in total evaluated cost. Based on what I have reviewed, it is my position that American Systems possesses the requisite capabilities to hire and retain a qualified professional labor force necessary to satisfy the requirements set forth in the solicitation.

Id. at 206. The record thus reflects that the agency’s best-value tradeoff analysis duly considered the risks associated with the awardee’s total compensation plan and reasonably concluded that those risks did not warrant a \$21 million premium. The protester’s disagreement with the agency’s reasoned decision, without more, does not provide a basis to sustain the protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel